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Attorneys for Defendant and Counterclaimant
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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

KFX MEDICAL CORPORATION, a)	Case no. 11cv1698 DMS (BLM)
Delaware corporation,)	
)	JOINT HEARING STATEMENT
Plaintiff and Counterdefendant,)	PURSUANT TO PATENT L.R. 4.2
)	
v.)	Date: June 4, 2012
)	Time: 10:30 a.m.
ARTHREX, INCORPORATED., a Delaware)	Courtroom 10, 2 nd Floor
corporation,)	Honorable Dana M. Sabraw
)	
Defendant and Counterclaimant.)	

1 Pursuant to Patent L.R. 4.2 and the Court's November 10, 2011 Case Management
2 Conference Order Regulating Discovery and Other Pretrial Proceedings, Plaintiff KFx
3 Medical Corporation ("KFx") and Defendant Arthrex, Inc. ("Arthrex") hereby submit their
4 Joint Hearing Statement.

5 **A. Anticipated Length of Claim Construction Hearing**

6 The parties anticipate that the claim construction hearing will require approximately
7 2-3 hours, or half of a court day.

8 **B. Witnesses for Claim Construction Hearing**

9 KFx intends to call Dr. Jonathan Ticker as an expert witness either by declaration or at
10 the claim construction hearing. Dr. Ticker will offer his opinion that a person of ordinary
11 skill in the art would understand the term "inserting a [first/second/third/fourth] anchor into
12 bone" as used in the claims of the '311 patent means "putting or placing the
13 [first/second/third/fourth] anchor into bone." Dr. Ticker will also offer his opinion that the
14 construction is consistent with the plain and ordinary meaning of "inserting", the '311 patent
15 specification and its prosecution history. Dr. Ticker will further offer his opinion that the
16 proposed construction is also consistent with his professional experience and the various
17 anchors (on the market both before and after the time of invention and also reflected in prior
18 art patents) that are not securely fixed into the bone merely because they have been inserted
19 into the bone.

20 Arthrex intends to call Dr. Greenleaf as an expert witness either by declaration or at
21 the claim construction hearing. Dr. Greenleaf will offer his opinion that a person of ordinary
22 skill in the art would understand the term "inserting a [first/second/third/fourth] anchor into
23 bone" as used in the claims of the '311 patent means "putting or placing the
24 [first/second/third/fourth] anchor into bone such that it is securely fixed in the bone"

25 Dr. Greenleaf will also offer his opinion that this construction is consistent with the
26 plain and ordinary meaning of "inserting an anchor into bone" as applied to the use of suture
27 anchors, the '311 patent specification and its prosecution history. Dr. Greenleaf will also
28 offer his opinion that the proposed construction is consistent with his professional experience

1 and opinion and that the object of all suture anchors is to insert them into bone so that they
2 are securely fixed in the bone.

3 Dr. Greenleaf will also offer his opinion that a person of ordinary skill in the art
4 would understand the term “suture” as used in the claims of the ‘311 patent, means “a flexible
5 structure that can be stretched between two or more anchors and includes traditional suture
6 material, single or multiple stranded threads, or a mesh structure.”

7 Dr. Greenleaf will also offer his opinion that this construction (as it relates to single or
8 multiple stranded threads) is consistent with the plain and ordinary meaning of “suture” as
9 used with suture anchors. Dr. Greenleaf will also offer his opinion that this construction
10 (including the disclosed mesh) is consistent with the alleged invention as described in the
11 ‘311 patent specification. Dr. Greenleaf will also offer his opinion that the proposed
12 construction is consistent with his professional experience with using suture with suture
13 anchors in arthroscopic surgery.

14 Respectfully submitted,

15 KNOBBE, MARTENS, OLSON & BEAR, LLP

16
17 Dated: March 12, 2012

By: s/Phillip A. Bennett

18 Joseph F. Jennings
Phillip A. Bennett

19 Attorneys for Plaintiff and Counterdefendant
20 KFx Medical Corporation

21
22 DICKSTEIN SHAPIRO LLP

23
24 Dated: March 12, 2012

By: s/ Charles W. Saber

25 Michael A. Tomasulo
Charles W. Saber
26 Salvatore P. Tamburo
Megan S. Woodworth

27 Attorneys for Defendant and Counterclaimant
28 Arthrex, Incorporated

PROOF OF SERVICE


I hereby certify that on March 12, 2012, I caused the **JOINT HEARING STATEMENT PURSUANT TO PATENT L.R. 4.2** to be electronically filed with the Clerk of the Court using the CM/ECF system which will send electronic notification of such filing to the following person(s):

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I certify and declare under penalty of perjury under the laws of the State of California that I am employed in the office of a member of the bar of this Court at whose direction the service was made, and that the forgoing is true and correct.

Executed on March 12, 2012, at San Diego, California.


Colleen Mensching

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